IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

TUESDAY, THE 20TH FEBRUARY 2007 / 1ST PHALGUNA 1928

Crl.Rev.Pet.No. 2034 of 2004-D

CC.7/2003 of III ADDL.SESSIONS COURT(SPE/CBI)-I, ERNAKULAM
(C.C.NO. 6/2004 - IV ADDL.SESSIONS JUDGE(SPE/CBI)-II (ERNAKULAM)

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REVN. PETITIONER: PETITIONER:

P.R. RAJAN, SON OF RAMA WARRIAR,
SOPANAM, CHEMBUMUKKU, ERNAKULAM.

BY ADV. SRI.SREELAL N.WARRIER

RESPONDENTS:

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1. CENTRAL BUREAU OF INVESTIGATION,
REPRESENTED BY ITS SPECIAL PROSECUTOR.

2. STATE OF KERALA, REP. BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA.

BY ADV. SRI.S.SREEKUMAR, SC FOR CBI

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 20/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P.NO.2034 of 2004

DATED THIS THE 20TH DAY OF FEBRUARY 2007

ORDER

The revision petitioner, who is the second accused in C.C.No.7/2003 in the Court of IIIrd Additional Sessions Court (SPE/CBI)-I, Ernakulam, subsequently renumbered as C.C.No.6/2004 in the Court of IV Additional Sessions Judge (SPE/CBI)-II, Ernakulam, has sought for setting aside the order of the court below dismissing his application under Section 227 Cr.P.C. The prosecution case against the accused including the 2nd accused and the Assistant Administrative Officer, the National Insurance Company, two Advocates and an Advocate's clerk is with respect to the offences under Section 120 B, Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act and Sections 420, 468 and 471 of the Indian Penal Code. The allegation is that in pursuance of the criminal conspiracy of the accused persons, 22 O.P.(MV) cases got registered in the name of fictitious persons forging signatures along with other cases involved in a bus accident and then effected out of court

settlements and filed joint reports of settlements, issued cheques, encashed the same and cheated the National Insurance Company for a sum of Rs.10,98,500/-. The petitioner/2nd accused was the then cashier who accompanied the first accused, the Assistant Administrative Officer, and it was he who prepared five cheques and allegedly handed over the cheques to the 4th accused, an Advocate's clerk, who encashed the same. The discharge application was dismissed by the court below on the finding that prima facie case has been made out against the petitioner.

It is the contention of the petitioner that he had accompanied the officer as directed and as he was bound and that he has no role in the rest of the activities. According to him, he has only performed his official functions.

On the other hand, counsel for the C.B.I. has pointed out the portions of the C.D. wherein the involvement in the second accused/petitioner is specifically mentioned. In the circumstances, it appears that the innocence of the petitioner can be established only at trial. On a perusal of the documents

produced, it appears, as observed by the court below that a prima facie case has been made out against the second accused/petitioner. At this point of time, the role of the petitioner in the alleged conspiracy and other offences cannot be ruled out. Hence the Crl.revision petition is dismissed.

The court below shall dispose of the matter on merits untrammelled by the observations contained in this order or that of the court below.

K.R.UDAYABHANU, JUDGE

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